

ORIGINAL

OPEN MEETING



0000068063

MEMORANDUM

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Arizona Corporation Commission

2003 OCT 16 P 2:24

TO: THE COMMISSION

DOCKETED

FROM: Utilities Division

OCT 16 2003

AZ CORP COMMISSION
DOCUMENT CONTROL

DATE: October 16, 2003

DOCKETED BY

CR

RE: IN THE MATTER OF THE JOINT APPLICATION OF SOUTHWEST GAS CORPORATION, A CALIFORNIA CORPORATION WITH OFFICES AT P.O. BOX 52075, PHOENIX, ARIZONA 85072 AND BLACK MOUNTAIN GAS COMPANY, A MINNESOTA CORPORATION WITH OFFICES AT 6021 E. CAVE CREEK ROAD, P.O. BOX 427, CAVE CREEK, ARIZONA 85327, FOR ORDERS APPROVING A BORDERLINE AGREEMENT (DOCKET NOS. G-01551A-03-0172 AND G-01970A-03-0172)

On March 21, 2003, Black Mountain Gas Company ("Black Mountain") and Southwest Gas Corporation ("Southwest") filed a joint application that would allow the companies to realign the boundaries of their respective adjoining natural gas service territories ("Borderline Agreement") within Mirabel, a housing community being developed by Discovery Scottsdale Management, LLC, which extends across the service territories of both Southwest and Black Mountain. On May 16 and 28, 2003, the applicants provided Staff additional written information supporting the application in response to requests from Staff for further information.

The Mirabel development is located northeast of the intersection of Cave Creek Road and Pima Road and spans the certificated territories of both Black Mountain and Southwest. The villages are located in Sections 28, 32, and 33 of Township 6, North Range 5, East of the Gila and Salt River Base and Meridian. Some of the lots have been sold to buyers; however, no one has taken residence in the community as a clubhouse is the only completed structure. Within Mirabel, there are five villages that span both service territories (Villages 1, 4, 6, 9, and 12). A fifth village (Village 10) lies entirely within the Southwest service territory, but is also included in the proposed exchange due to proximity to existing Black Mountain facilities.

The proposed agreement would have the effect of making four lots currently located in the Black Mountain territory customers of Southwest. The agreement would also have the effect of making ninety three lots currently located in the Southwest territory customers of Black Mountain. This exchange will enable Black Mountain to serve all lots in Villages 1, 4, 6, 9, 10 and 12 at Mirabel and enable Southwest Gas to serve all lots in Village 6 at Mirabel.

Exchange of these lots is proposed in order to reduce capital expenditures associated with installation of infrastructure needed to serve the villages. The Applicants estimate capital cost for Black Mountain's service of Village 6 customers considered for exchange is estimated at \$15,000 compared to Southwest's estimate of \$10,000. As well, they estimate capital cost for Southwest's service of Village 1, 4, 9, 10, and 12 customers considered for exchange collectively

at approximately \$261,000 compared to Black Mountain's estimate of \$116,438. Delineated capital costs for each of these villages are shown below:

	<u>If Black Mountain Serves:</u>	<u>If Southwest Serves:</u>
Village 6	15,000	10,000
Village 1	26,400	78,568
Village 4	2,250	5,612
Village 9	53,288	112,282
Village 10	30,000	56,120
Village 12	4,500	8,418

Applicants also suggest that other benefits are derived from the exchange such as avoidance of duplication of facilities resulting in lower total capital investment and simplified maintenance and leak location in the future.

Should the exchange occur as proposed, the tariffs, service rules and regulations, and rate schedules of the acquiring provider will apply to the acquired lots respectively. Each company reserves the right to serve customers physically located within their service territories when their facilities have been sufficiently extended to make serving such customers economically feasible. No notice to lot owners is known to have been given regarding the borderline agreement and potential realignment of service territory. Providing notice is difficult at this time as no customers in Mirabel have contacted Southwest or Black Mountain for establishment of service. However, Southwest and Black Mountain have been in discussion with the developer and the developer is aware of this application.

Southwest Gas is currently considering purchase of Black Mountain Gas. The docket number for the matter is G-01551A-02-0425. Decision No. 66101 has authorized the purchase. The decision also authorizes Black Mountain rates to continue to be charged within the Black Mountain service territory until dissolution of Black Mountain or in no case later than July 1, 2004.

Based on 1999 usage, Black Mountain's customers' annual average use is 59 therms monthly. Given that consumption, a user subject to Southwest rates would pay \$63.43 monthly and a user subject to Black Mountain rates would pay \$72.73 monthly under current rates, averaging seasonal usage.

Should the borderline agreement be implemented, a Southwest customer exchanged to Black Mountain using 59 therms a month would pay \$9.30 more monthly than if they had been subject to Southwest rates.

THE COMMISSION

October 16, 2003

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Staff recommends the Commission approve the proposed Borderline Agreement between Black Mountain and Southwest. Staff further recommends that the Commission require each company to notify the Utilities Division prior to reasserting rights to serve properties in their historic service areas once they have been exchanged through the borderline agreement.



Ernest G. Johnson
Director
Utilities Division

EGJ:SPI:rdp/LAV

ORIGINATOR: Steve Irvine

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 MARC SPITZER
 Chairman
3 WILLIAM A. MUNDELL
 Commissioner
4 JEFF HATCH-MILLER
 Commissioner
5 MIKE GLEASON
 Commissioner
6 KRISTIN K. MAYES
 Commissioner
7

8 IN THE MATTER OF IN THE MATTER OF } DOCKET NOS. G-01551A-03-0172
9 THE JOINT APPLICATION OF } G-01970A-03-0172
10 SOUTHWEST GAS CORPORATION, A }
11 CALIFORNIA CORPORATION, AND }
12 BLACK MOUNTAIN GAS COMPANY, A }
 MINNESOTA CORPORATION, FOR AN }
 ORDER APPROVING A BORDERLINE }
 AGREEMENT }

DECISION NO. _____

ORDER

13
14 Open Meeting
15 November 4 and 5, 2003
16 Phoenix, Arizona

16 BY THE COMMISSION:

17 FINDINGS OF FACT

18 1. On March 21, 2003, Black Mountain Gas Company ("Black Mountain") and
19 Southwest Gas Corporation ("Southwest") filed a joint application that would allow the companies
20 to realign the boundaries of their respective adjoining natural gas service territories ("Borderline
21 Agreement") within Mirabel, a housing community being developed by Discovery Scottsdale
22 Management, LLC, which extends across the service territories of both Southwest and Black
23 Mountain.

24 2. Both Black Mountain and Southwest are engaged in providing natural gas service
25 within portions of Maricopa County, Arizona, pursuant to the authority granted by the Arizona
26 Corporation Commission ("Commission").

27 3. The real properties known as Mirabel Villages 1, 4, 6, 9, and 12 are located such
28 that portions of each of the Villages lay within the Black Mountain service territory and others

1 portions lay within the Southwest service territory. Some lots within these Villages span both
2 service territories. Mirabel Village 10 is located completely within the Southwest service territory;
3 however, due to the presence of existing Black Mountain facilities, it can be served more cost
4 effectively by Black Mountain.

5 4. Black Mountain and Southwest have entered into a Borderline Agreement whereby
6 Black Mountain has authorized Southwest to serve all lots located within Mirabel Village 6 and
7 Southwest has authorized Black Mountain to serve all lots located within Mirabel Villages 1, 4, 9,
8 10, and 12.

9 5. Mirabel has requested that gas service be provided to the Mirabel Villages.

10 6. Due to the location of existing gas facilities and Villages considered in the
11 agreement, the Applicants estimate the agreement would have the effect of reducing capital costs
12 necessary to serve Village 6 by approximately \$5,000 and reducing capital costs necessary to serve
13 Villages 1, 4, 9, 10, and 12 collectively by approximately \$261,000. In each of Villages 1, 4, 9,
14 10, and 12 individually, service by Black Mountain rather than Southwest results in savings of
15 capital costs.

16 7. Black Mountain and Southwest propose that the tariffs, service rules and
17 regulations, and rate schedules of the acquiring providers be applied to lots acquired through the
18 agreement.

19 8. Each company reserves the right to serve customers physically located within their
20 service territories when their facilities have been sufficiently extended to make serving such
21 customers economically feasible.

22 9. Staff believes that the borderline agreement will benefit Mirabel residents in the
23 Villages proposed for exchange by lowering the capital costs necessary to provide gas service to
24 the Villages.

25 10. Staff recommends the Commission approve the proposed Borderline Agreement
26 between Black Mountain and Southwest.

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1 11. Staff further recommends that the Commission require each company to notify the
2 Utilities Division prior to reasserting rights to serve properties in their historic service areas once
3 they have been exchanged through the borderline agreement.

4 CONCLUSIONS OF LAW

5 1. Black Mountain and Southwest are public service corporations within the meaning
6 of Article XV, Section 2, of the Arizona Constitution.

7 2. The Commission has jurisdiction over Black Mountain and Southwest and the
8 subject matter of the application.

9 3. The Commission, having reviewed the Borderline Agreement and Staff's October
10 14, 2004 memorandum concludes that the Borderline Agreement is in the public interest and
11 should be approved.

12 ORDER

13 IT IS THEREFORE ORDERED that the joint application of Black Mountain Gas
14 Company and Southwest Gas Corporation for approval of the Borderline Agreement enabling
15 Black Mountain to serve all lots in Villages 1, 4, 6, 9, 10 and 12 at Mirabel, and enabling
16 Southwest Gas to serve all lots in Village 6 at Mirabel is in the public interest and is hereby
17 approved.

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IT IS FURTHER ORDERED that Black Mountain Gas Company and Southwest Gas Corporation notify the Utilities Division at least sixty days prior to exercising rights to serve exchanged properties.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN	COMMISSIONER	COMMISSIONER
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COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2003.

BRIAN C. McNEIL
Executive Secretary

DISSENT: _____

DISSENT: _____

EGJ:SPI:rdp/LAV

SERVICE LIST FOR: SOUTHWEST GAS CORPORATION AND BLACK MOUNTAIN GAS COMPANY

DOCKET NOS. G-01551A-03-0172 AND G-01970A-03-0172

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